

YOUTH SERVICES POLICY

Title: Administrative Remedy Procedure Next Annual Review Date: 05/26/2010	Type: B. Classification, Sentencing and Service Functions Sub Type: 5. Administrative Remedy Procedure/Disciplinary Process Number: B.5.3
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References: ACA Standards 2-CO-3C-01, 2-CO-4B-03 (Administration of Correctional Agencies), 4-JCF-3A-06 (Performance-Based Standards for Juvenile Correctional Facilities); PbS Standards JP5, JP6, JP9, JEP8 and JEP9; and other applicable standards and statutes; Rules published in the Louisiana Register and cited as LAC 22:1.325, 326 and 369; La. R.S. 15:1177 et.seq.; La. R.S. 15:574.12; Ch.C.Art. 412; YS Policy No. C.5.1. "Performance Data and Information" and the Administrative Remedy Procedure Booklet for Youth.	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 05/26/2009

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish a formal review process known as the "Administrative Remedy Procedure" through which a youth may seek resolution of complaints relating to his stay in secure care.

III. APPLICABILITY:

Deputy Secretary, Undersecretary, Assistant Secretary, Chief of Operations, Continuous Quality Improvement Services (CQIS) staff, Facility Directors, Case Managers, ARP Coordinators, other appropriate staff members who assist with the Administrative Remedy Procedure, and youth committed to secure facilities.

IV. POLICY:

It is the Deputy Secretary's policy that the Administrative Remedy Procedure shall be accessible by youth and shall be utilized when youth seek formal review and resolution of complaints relating to their stay in secure care.

All youth are entitled to invoke the Administrative Remedy Procedure. It shall be the responsibility of the Director to provide appropriate assistance/accommodations for youth with literacy deficiencies or language barriers. No action shall be taken against a youth for the good faith use of or good faith participation in the procedure. Reprisals of any nature are prohibited. Youth are

entitled to pursue, through the Administrative Remedy Procedure, a complaint that a reprisal occurred.

Youth may request information and obtain assistance in using the Administrative Remedy Procedure from his case manager, counselor, or other staff member. Nothing in the Administrative Remedy Procedure is intended to prevent or discourage a youth from communicating with the Director or anyone else in Youth Services.

V. GENERAL:

The Administrative Remedy Procedure has been established for youth to seek formal review of a complaint relating to many aspects of their stay in secure care. Such complaints and grievances include, but are not limited to, actions pertaining to conditions of confinement, personal injuries, medical malpractice, lost personal property, denial of publications, time computation, or challenges to rules or policies. Youth shall receive reasoned responses, and where appropriate, meaningful remedies.

Youth may request administrative remedies to situations arising from policies, conditions, or events within the facility that affect them personally. Disciplinary reports are not grievable and must be handled through the disciplinary appeal system. Court decisions and pending criminal and juvenile court matters, over which Youth Services has no control or jurisdiction, cannot be reviewed through the administrative remedy procedure.

No action shall be taken against any youth for the good faith use of or good faith participation in the ARP. The prohibition against reprisals should not be construed to prohibit discipline of youth who do not use the system in good faith. Those who file requests that are, as determined by the ARP Coordinator, frivolous or deliberately malicious, may be disciplined under the appropriate Code of Conduct violation contained in the "Youth Code of Conduct."

VI. DEFINITIONS:

ARP Coordinator - a staff member designated by the Director to coordinate and facilitate the ARP process.

Business Days - Monday through Friday.

Calendar Days - consecutive days including weekends and holidays.

Case Manager - a term used to identify members of the counseling profession, e.g., social services counselor, clinical social worker, program manager, group leader, or a treatment team member assigned to manage a youth's case.

Continuous Quality Improvement Services (CQIS) - the Youth Services Central Office division responsible for monitoring the ARP process.

Emergency Grievance - a matter which needs to be reviewed immediately because delay would subject the youth or others to substantial risk of personal injury or cause other serious or irreparable harm.

Grievance - a written complaint regarding a policy, condition, action, or incident occurring within a facility that affects the youth personally.

Initiation of the ARP Process - the Administrative Remedy Procedure shall commence the day the ARP is accepted by the ARP Coordinator.

Sensitive Issue - ARPs which may be filed initially with the Deputy Secretary if the youth believes the content of the ARP would adversely affect him if it became known at the facility.

VII. PROCEDURES:

A. Orientation and Distribution

1. Employees shall be made aware of the administrative remedy procedure by initial training and continuing in-service training.
2. Incoming youth shall be made aware of the administrative remedy procedure at orientation. There will be a question and answer session as part of the orientation. A simplified version/booklet of the administrative remedy procedure will be provided to the youth during the orientation process. The youth booklet shall be posted in areas readily accessible to all employees and youth, including the dorms, cafeteria, school, and infirmary.
3. Classroom teachers will formally review the ARP process with students five times per year during the final week of each grading period.

B. Informal Resolution

Youth are encouraged to resolve their problems informally, before initiating the formal ARP process. Informal resolution may be sought by talking to a case manager, counselor, or other staff member. An attempt at informal resolution does not delay the time frame for filing an ARP. The youth and staff member assisting with informal resolution must be alert to the 90 calendar day filing time frame so that the opportunity to file an ARP is not missed if the matter is not informally resolved.

C. Initiation of ARP

1. ARP forms shall be available at designated sites (dorms, cafeteria, school, infirmary, etc.) at each facility and from case managers. An ARP is initiated by completing the first part of the ARP Form [Attachment B.5.3 (a)]. Requests for ARP shall not be rejected because they are not on the ARP form, however, all requests must contain a statement or phrase to this effect: "This is a request for administrative remedy", "This is a request for ARP", or "ARP". Upon receipt by the ARP Coordinator, such request will be attached to an ARP form.
2. The youth shall complete the first part of the form outlining the problem and remedy requested. His case manager, counselor, or other staff member will be available for assistance in completing the form.
3. If additional space is needed another piece of paper may be used and attached to the ARP form. The youth must give the completed form to his case manager or place it in an ARP box located in the dorms, cafeteria, school and infirmary.
4. Time Limit/Extension
 - a. Time Limit - the youth has 90 calendar days after the incident/occurrence in which to file an ARP. The ARP is considered "filed" upon receipt by the ARP Coordinator or designee. ARPs placed in the ARP box on a Saturday, Sunday, or other legal holiday shall be deemed to have been received on the first regular business day following the legal holiday.
 - b. Extensions - the 90-day requirement may be waived by the Director when circumstances warrant, i.e., if the youth is ill for an extended period of time or if a significant, unusual event affects the youth's ability to file the ARP. The Director must provide written reasons for the waiver to the ARP Coordinator to be retained in the ARP file. The youth may make a written request for a 5 calendar day extension from the ARP Coordinator if additional time is needed to prepare the ARP.
5. Youth released from secure care prior to filing their ARP should send the ARP directly to the ARP Coordinator. The ARP must be postmarked or received at the facility within the 90 calendar day time frame.

D. Screening - ARP Coordinator's Review

The ARP Coordinator will screen all ARPs prior to the Step One review/response to determine if it can be accepted into the process or if it is to be rejected or corrected. The ARP Coordinator will keep a record (copy of the ARP) of all screening determinations. If the same complaint is received from different youth, each must be reviewed as a separate ARP. If the ARP is rejected, the reason(s) for rejection shall be noted on the ARP Form. The ARP Coordinator will send notice to the youth via a copy of the ARP Form regarding the status (acceptance/rejection) of the request. The Director should be kept apprised of the status of the ARP throughout the process. The CQIS office will be copied on all rejections.

An ARP may be rejected for one or more of the following reasons, which must be recorded on the ARP form:

1. The ARP pertains to a disciplinary matter or court order in the youth's case.
2. The ARP concerns an action not yet taken or decision which has not yet been made.
3. There has been a time lapse of more than 90 calendar days between the incident/occurrence and receipt of the initial request.
4. The date of the incident/occurrence is not on the form. The form will be returned to the youth to have the date inserted, however, the original 90 day time limit will still apply.
5. The youth has filed an ARP for another youth.
6. A request is unclear. In this case, the request may be rejected and returned to the youth with a request for clarification. The youth must return the ARP to the ARP Coordinator within 5 calendar days after he (the youth) has received the request for clarification. If the clarification is not timely received, it will be rejected. A released youth has 10 calendar days to return the clarification.
7. A youth refuses to cooperate with the inquiry about his claim raised in the ARP.
8. The request is a duplicate of a previous request submitted by the same youth.

9. The request contains several unrelated complaints. A youth should not include more than one complaint in a single ARP. The ARP Coordinator has the discretion to accept or reject the ARP if it contains several unrelated complaints.

E. Step One - ARP Coordinator's Recommendation and Director's Response (Maximum Time Limit - 21 Calendar Days)

1. The youth will begin the process by completing the first part of a Youth ARP Form, which briefly sets out the basis for the claim and the relief sought.
2. The original ARP form submitted by the youth will become part of the process and will not be returned to the youth until the Director's response (Step One) has been finalized.
3. The ARP Coordinator will screen the ARP. If accepted, the ARP Coordinator or his designee will investigate the claim by engaging in fact-finding, including interviewing the youth and pertinent staff.
4. ARPs filed by an attorney must include written proof of representation, which can be a signed pleading, a letter signed by the youth's parent or guardian advising of the engagement of the attorney, or some other legal authority for the attorney's representation. The ARP Coordinator or the fact-finding person will contact the attorney before the youth is interviewed. The attorney can waive his presence at the interview. The interview will not be delayed more than 2 days for the attorney's presence without approval from the Director.
5. If the youth advises the ARP Coordinator or fact-finding person during the investigation that he has spoken with an attorney about the ARP, the interview must cease. The youth will be instructed to contact the attorney and advise him to call the ARP Coordinator within 2 business days. If the attorney has not contacted or attempted to contact the ARP Coordinator within 2 business days, the interview may resume.
6. The ARP Coordinator will submit the ARP and supporting documentation to the Director for his Step One response. Emergency and medical, safety or abuse-related ARPs shall be handled expeditiously. Abuse-related ARPs shall be copied to Investigative Services (IS). IS shall verify to the Director that an investigation has/has not been conducted.
7. The Director may return the ARP Form to the ARP Coordinator for additional information or further review prior to rendering his Step One response.

8. The Director shall enter his response onto the original Youth ARP Form. The ARP form and supporting documents will be returned to the ARP Coordinator. The ARP Coordinator will log in receipt of the decision and forward the original ARP form to the youth, send a copy to any section affected by the decision and keep a copy of the ARP form and supporting documents in the ARP file.
9. The Director may make a written request to the Deputy Secretary for an extension of up to 7 calendar days for the Step One review/response. The youth must be notified in writing of such an extension. The Deputy Secretary may extend time needed for his response when such is deemed necessary. However, in no case may the cumulative extensions granted by the Deputy Secretary exceed 30 calendar days. This does not include waivers granted by the Director due to the youth's illness or other significant, unusual events.

**F. Step Two - Deputy Secretary's Response
(Maximum Time Limit - 21 Calendar Days)**

1. A youth who is dissatisfied with the Step One decision has 10 days from receipt of the Step One decision to complete the next part of the original ARP form requesting the Step 2 review. The youth must give the completed form to his case manager or place it in an ARP box located in the dorms, cafeteria, school or infirmary. His case manager or other staff member will be available to assist as needed with filing the Step Two request. He may make a written request for an extension from the Director for up to five calendar days in which to file for the Step Two review.
2. The ARP Coordinator will log in the request for Step Two review, retain a copy for the ARP file, and mail the original form along with copies of any supporting documentation to the Deputy Secretary.
3. The Deputy Secretary shall render a final decision. A copy of the decision written on the ARP form shall be mailed to the youth, postmarked within 21 calendar days of the Deputy Secretary's receipt of the request for Step Two review. The Deputy Secretary will retain a copy of the ARP and return the original to the ARP Coordinator. The ARP Coordinator will copy the decision to the Director, the youth's attorney, and to the ARP file. The ARP Coordinator shall return the original response to the youth and obtain the youth's signed acknowledgment of receipt.

4. Unless an extension has been granted, no more than 42 calendar days shall elapse from the ARP Coordinator's receipt of the ARP to completion of the Step Two process. Absent such an extension, expiration of response time limits shall entitle the youth to move on to the next step in the process.

G. Judicial Review

1. If a youth's ARP is rejected or if he is not satisfied with the Step Two response, he may seek judicial review of the decision pursuant to La. R.S. 15:1177 *et seq.* within 30 calendar days after receipt of the decision.
2. If the youth communicates to the ARP Coordinator that he is not satisfied with the Step Two response, the ARP Coordinator will notify the youth's parents/guardian and attorney, in writing, that the Youth Services' ARP procedure has been exhausted [Attachment B.5.3 (c)] and of the right to seek judicial review within 30 calendar days after receipt of the decision by the youth.

H. Sensitive Issues

1. If the youth believes his complaint is sensitive and he would be adversely affected if his complaint became known at the facility, he may file the complaint directly with the Deputy Secretary. The youth must explain, in writing, the reason for not filing the complaint at the facility. If the Deputy Secretary agrees that the complaint is sensitive, he shall accept the ARP and respond in accordance with Step One procedures. The Deputy Secretary shall enter his response onto the original ARP Form. The ARP form, and supporting documents will be returned to the ARP Coordinator. The ARP Coordinator will log in receipt of the decision, and forward the original ARP form to the youth, send a copy to any section affected by the decision and keep a copy of the ARP form and supporting documents in the ARP file.
2. If the Deputy Secretary finds that the complaint is not sensitive, he shall so advise the youth in writing. The original letter and original ARP shall be sent to the ARP Coordinator. The ARP Coordinator will ensure that the Deputy Secretary's letter and the original ARP are delivered to the youth and obtain the youth's signature acknowledging receipt. The ARP Coordinator shall advise the youth that he may submit the ARP as a regular "Non-Sensitive" ARP.

3. The youth shall then have the normal 90 calendar day deadline from the date the incident occurred or 7 calendar days from the date he receives the rejection (whichever is longer) to submit his request through regular channels beginning with Step One.

I. ARPs Related to Lost Property Claims

1. If a loss of personal property is unsubstantiated or results from the youth's own acts or results from his bartering, trading, selling to, or gambling with, other youth, the youth will not be compensated.
2. If the loss of personal property occurs through the negligence of the facility and/or its employees, the youth's claim may be processed as described below.
 - a. If a state-issue item is available, the youth's lost/damaged property will be replaced. If a state-issue replacement is not available, the Director or his designee will purchase a similar item to replace the lost/damaged personal property up to a limit of \$50.00.
 - b. Replacements shall be documented on the Lost Property Replacement Receipt form [Attachment B.5.3 (b)] which will be completed by the ARP Coordinator and submitted to the youth for his signature when the property is replaced.

J. Miscellaneous

1. ARP Records

Administrative remedy procedure records are confidential and may only be released in accordance with La. R.S. 15:574.12 and Ch.C. Art. 412.

The following records must be maintained. The facility may retain other records as deemed appropriate.

- a. A computer database will be maintained by the ARP Coordinator which documents the nature of the request, relevant dates, recommendations and Step One and Two dispositions.
- b. Each facility will submit reports on ARP activity in accordance with YS Policy No. C.5.1.
- c. A copy of each ARP filed, the responses, dispositions and pertinent documents shall be kept on file at the ARP Coordinator's office.
- d. Records shall be kept at least 3 years following final disposition and in accordance with YS records retention policy. The Deputy Secretary shall formulate a procedure for orderly disposal of these records.

2. Transferred Youth

When a youth has filed an ARP at a facility (sending facility) and is transferred prior to the completion of the Step One review, or if he files an ARP after transfer based on an incident occurring at the sending facility, the sending facility will complete the processing through Step One. The Director of the receiving facility will be responsible for keeping the youth informed of the progress of his ARP.

3. Discharged Youth

If a youth is discharged prior to final disposition of his ARP, or if he files an ARP after discharge, the facility will process the ARP, notifying the youth at his last known address using the procedures described in VII.A. through VII.J. as each step is completed. [The 90 calendar day time frame (VII.C.4.a.) in which to file an ARP applies.]

4. Monetary Damages

If the Director at the Step One stage believes that monetary damages may be a possible remedy for an ARP, he shall refer the matter to the Deputy Secretary. If the Deputy Secretary finds that monetary damages are a fair and just remedy, he shall consult with the Legal Section of Youth Services to confirm that monetary damages are appropriate.

This matter shall then be referred to the Office of Risk Management (ORM) of the Division of Administration to determine the amount of damages. Copies of any settlement agreements shall be sent to the ARP Coordinator at the appropriate facility.

5. Annual Review

The Director shall annually solicit comments and suggestions from youth and staff regarding ARP processing, efficiency and integrity of the Administrative Remedy Procedure and report the results to the Deputy Secretary and the Chief of Operations.

Previous Regulation/Policy Number: B.5.3

Previous Effective Date: 3/14/08



Attachments/References: B.5.3 (a) Youth ARP Form - May 2009.doc



B.5.3 (b) Lost Property Agreement Form - May 2009.doc B.5.3 (c) ARP Parental Notice Form - May 2009.doc



ARP Booklet - May 2009.doc